

**Notice of Allowability**

Application No.

09/364,794

Examiner

Jeffrey A. Shapiro

Applicant(s)

BERGE ET AL.

Art Unit

3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/23/04.
2. ☒ The allowed claim(s) is/are 165-204.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☒ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)           |
| 2. <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                     | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment                              |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance             |
|   | 9. <input type="checkbox"/> Other _____   |

  
DONALD P. WALSH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with James McClain on 4/20/04.

The application has been amended as follows:

In the Claims:

In Claim 165, line 7, before the word "source", "said" has been changed to --a--;

In Claim 165, after line 6, the phrase --wherein said ice is substantially uncontaminated ice cubes;-- has been inserted;

In Claim 165, line 13, the word "with" has been replaced by --having an inlet proximate to--;

In Claim 192, after line 7, the phrase --b. wherein said ice is substantially uncontaminated ice cubes;-- has been inserted;

In Claim 192, line 8, first character in the line, "b.", has been changed to --c.--;

In Claim 192, line 9, before the word "source", "said" has been changed to --a--;

In Claim 192, line 12, first character in the line, "c.", has been changed to --d.--;

In Claim 192, line 13, the last word "from", has been deleted;

In Claim 192, line 14, the first three words "said initial conduit" have been deleted;

In Claim 192, line 15, first character in the line, "d.", has been changed to --e.--;

In Claim 192, line 15, the last word in the line "with" has been changed to --  
having an inlet proximate to--;

### **REASONS FOR ALLOWANCE**

2. These comments are made in addition to the remarks in Applicant's specification and arguments, concerning the manner in which the invention distinguishes from the art discussed therein. The Examiner notes that the prior art does not disclose or suggest the claimed combination including particularly an apparatus that conveys uncontaminated ice cubes, said cubes being substantially entirely made of frozen potable water, said apparatus having a source of ice cubes connected to a conduit which in turn is connected to several receptors of ice, a diverter to divert the ice into one of the plural ice receptors, a vacuum pump connected to a line having an inlet proximate to each receptor to develop negative air pressure so as to pull ice particles from the ice source to the ice receptacle.

The term "ice", as positively recited in the independent claims, is construed as ice particles in various shapes and configurations consisting of frozen water only, made by an ice making apparatus and transported to the ice receptacle, where it is to be used. See specification at p.11, lines 12-23. The specification indicates at p.4, lines 20-26, that prior art positive pressure systems are closed circuit systems which do not allow for cleaning equipment access. Additionally, Applicants' system provides for ease of expansion, reduction of noise generation, and saving energy costs. See p.5, lines 17-

21 and 28-31 and p.6, lines 3-6. The prior art lacks this structure or anything equivalent to it.

The foregoing is an Examiner's Statement of Reasons for Allowance.

3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

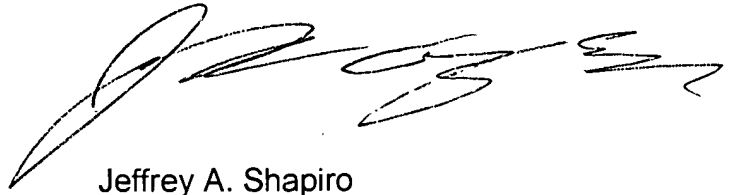
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Shapiro whose telephone number is (703)308-3423. The examiner can normally be reached on Monday-Friday, 9:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald P. Walsh can be reached on (703)306-4173. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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Art Unit 3653

4/14/04



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